

08 CIV 56847

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GURPREET SINGH,

Plaintiff

-against-

JUN 24 2008
COMPLAINT FOR
WRIT OF MANDAMUS

MICHAEL MUKASEY, Attorney General of
the United States; MICHAEL CHERTOFF,
Secretary, Department of Homeland Security;
JONATHAN SCHARFEN, Acting Director,
U.S. Citizenship and Immigration Services;
ANDREA QUARANTILLO, New York
District Director, U.S. Citizenship and
Immigration Services;

Civil Action No.

USCIS No. A 079 261 003

Defendants

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Plaintiff, GURPREET SINGH, through undersigned counsel, alleges as follows:

1. Plaintiff is a native and citizen of India. He resides within the jurisdiction of this Court and has been in lawful derivative asylee status of the United States since 1 June 2001. He currently resides at 70 Vassar Lane, Hicksville, NY 11801. His alien registration number is A 079 261 003. Plaintiff's claim to relief arises under 8 U.S.C. § 1255.

2. Defendant MICHAEL MUKASEY is the Attorney General of the United States; Defendant MICHAEL CHERTOFF is the Secretary, Department of Homeland

Security (“DHS”); Defendant JONATHAN SCHARFEN is the Acting Director, United States Citizenship and Immigration Services (“USCIS”); and Defendant ANDREA QUARANTILLO is the New York District Director of the United States Citizenship and Immigration Services (“USCIS”) with the supervisory authority over all operations of the USCIS within the New York district, including the authority to grant or deny adjustment applications submitted to the USCIS within the New York district. Defendants are sued herein in their official capacities. Defendants are charged by law with the statutory obligation to adjudicate applications for adjustment of status.

3. The Court has jurisdiction of this action pursuant to 28 U.S.C. 1331, 28 U.S.C. 1361, and 5 U.S.C. 701 et seq., and relief is requested pursuant to said statutes. This is a civil action to redress the deprivation of rights, privileges, and immunities secured to Plaintiff by compelling Defendants to perform a duty Defendants owe to Plaintiff.

4. Venue is proper in this Court under 28 U.S.C. 1391(e) because Defendant ANDREA QUARANTILLO resides in this district.

5. On or about 12 August 2002 Plaintiff filed an application for Adjustment of Status (Form I-485) with the Defendants as a derivative asylee.

6. To date, Plaintiff has not had his application adjudicated. He was interviewed by USCIS on 30 January 2006. At the conclusion of the interview he was

orally advised that the case was pending the procurement of another file relating to Plaintiff. A subsequent inquiry led to a Government response dated 5 December 2007, in which it indicated that the application is now awaiting the completion of a background investigation.

7. Defendants have given no indication when such background investigation will be completed, nor when Plaintiff may expect his application to be adjudicated.

8. Defendants, in violation of law and regulations, have willfully and unreasonably refused to adjudicate Plaintiff's Application to Adjust Status ("Form I-485"), thereby depriving Plaintiff of the benefit of becoming a Permanent Resident of the United States.

9. Defendants owe Plaintiff a duty to adjudicate said application, and have unreasonably failed to perform that duty.

10. Plaintiff has exhausted any administrative remedies that may exist.

WHEREFORE, Plaintiff prays that the Court:

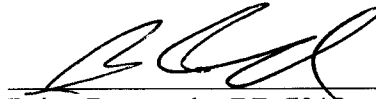
1. Compel Defendants and those acting under them to perform their duty to adjudicate Plaintiff's application; and

2. Grant such other and further relief as this Court deems proper under the circumstances.

Respectfully submitted,

Dated: 3 June 2008

PLUNKETT & DONNARD

A handwritten signature in black ink, appearing to read 'BD', is written over a horizontal line.

Brian Donnard – BD 7318
Counsel for Plaintiff
401 Broadway, Suite 912
New York, New York 10013
(212) 219-9866

Petitioner: Gurpreet SINGH

Alien #: A 079 261 003

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- 1) Form I-797C, Receipt Notice for Form I-485 Application to Adjust to Permanent Resident Status, dated 12 August 2002;
- 2) Adjustment of Status appointment letter for interview on 30 January 2006.
- 3) Response to Congressional Status Inquiry dated 5 December 2007.

Notice of Action



| | | |
|--|----------------|---|
| RECEIPT NUMBER LIN-02-259-52439 | | CASE TYPE I485 APPLICATION TO ADJUST TO PERMANENT RESIDENT STATUS |
| RECEIVED DATE August 12, 2002 | PRIORITY DATE | APPLICANT A79 261 003 SINGH, GURPREET |
| NOTICE DATE August 12, 2002 | PAGE 1 of 1 | |
| JOSEPH PLUNKETT ESQ PLUNKETT & DONNARD 401 BROADWAY STE 912 NEW YORK NY 10013 | | Notice Type: Receipt Notice Amount received: \$ 305.00 Section: Asylee adjustment |

The above application or petition has been received. It usually takes 390 to 420 days from the date of this receipt for us to process this type of case. Please notify us immediately if any of the above information is incorrect.

We will send you a written notice as soon as we make a decision on this case. You can also use the phone number 402-323-7830 to obtain case status information direct from our automated system 24 hours a day with a touch-tone phone and the receipt number for this case (at the top of this notice).

If you have other questions about possible immigration benefits and services, filing information, or Immigration and Naturalization Service forms, please call the INS National Customer Service Center (NCSC) at 1-800-375-5283. If you are hearing impaired, please call our TDD at 1-800-767-1833.

If you have access to the Internet, you can also visit the INS at www.ins.usdoj.gov. Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

NEBRASKA SERVICE CENTER
U. S. IMMIG. & NATZ. SERVICE
P.O. BOX 82521
LINCOLN NE 68501-2521
Customer Service Telephone: 402-323-7830





U. S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

PRESENT THIS LETTER AT THE WORTH STREET ENTRANCE

GURPREET, SINGH

File Number: A79261003

70 Vassar Ln

Date: 12/13/2005

Hicksville, NY 11801

Please come to the office shown below at the time and place indicated in connection with an official matter.

| | | | |
|-------------------------------|--|--------------------------|-------------------------|
| OFFICE LOCATION | 26 FEDERAL PLAZA NEW YORK, NY 10278 | Room No. 8-800 | Floor No. 8TH |
| DATE AND HOUR | | 1/30/2006 | 8:30:00 AM |
| ASK FOR | IMMIGRATION EXAMINER | | |
| REASON FOR APPOINTMENT | ADJUSTMENT OF STATUS (NOTE: This notice does not represent a decision on motions in any related matters or prior decisions.) | | |
| BRING WITH YOU | SEE ATTACHMENTS | | |

IT IS IMPORTANT THAT YOU KEEP THIS APPOINTMENT AND BRING THIS LETTER WITH YOU. IF YOU ARE UNABLE TO DO SO, STATE YOUR REASON, SIGN BELOW AND RETURN THIS LETTER.

WARNING:

IF YOU CONSIDER DEPARTING FROM THE UNITED STATES TO ANY COUNTRY, INCLUDING CANADA OR MEXICO, BEFORE A DECISION IS MADE ON YOUR APPLICATION, CONSULT WITH THIS OFFICE BEFORE DEPARTURE SINCE A DEPARTURE FROM THE UNITED STATES WILL RESULT IN TERMINATION OF YOUR APPLICATION.

I am unable to keep the appointment because:

SIGNATURE

DATE

Attorney Name: Joseph W Plunkett Esq
Attorney Address: 401 Broadway Suite 912
New York, NY 10013-

*Fingerprint appointment forward to applicant.

Very truly yours,

Mary Ann Gantner
District Director - CIS
New York District

PETER T. KING
Member of Congress
Third District, New York

339 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3203
(202) 225-7896

1003 PARK BOULEVARD
MASSAPEQUA PARK, NY 11762
(516) 541-4225

For Suffolk County:
(631) 541-4225

pete.king@mail.house.gov
www.peteking.house.gov



Congress of the United States
House of Representatives
Washington, DC 20515-3203

COMMITTEE ON HOMELAND SECURITY
RANKING MEMBER

FINANCIAL SERVICES COMMITTEE

SUBCOMMITTEE ON CAPITAL MARKETS

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

SUBCOMMITTEE ON HOUSING

December 5, 2007

Mr. Gurpreet Singh
70 Vassar Lane
Hicksville, New York 11801-3410

Dear Mr. Singh:

Enclosed is the reply I received from United States Citizenship and Immigration Services in response to my recent inquiry made on your behalf.

The communication is self-explanatory.

If I can be of further service to you with this matter, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "P. King".
PETER T. KING
Member of Congress

PTK/kd

Delury, Kevin

From: Congressional, Nebraska
Sent: Wednesday, December 05, 2007 11:40 AM
To: Delury, Kevin
Subject: JMT(39847)RE: 28,963: NY-03

A 79 261 003
GURPREET SINGH
I-485

Kevin:

Thank you for your inquiry on behalf of your constituents, Gurpreet Singh, who are concerned about the resolution of his I-485. A check of our records indicates the cases have been forwarded to our security unit. Until the background investigation is completed, we cannot move forward on the case.

We understand that your constituent is frustrated by the progress of their applications. In order to fulfill its mission to provide immigration benefits and services to the public, USCIS must balance its obligation to the individual applicant against its obligation to the public as a whole. Consequently, we have adopted background security checks, requiring various levels of scrutiny based on the type of application under consideration.

USCIS relies primarily on three background check mechanisms: the Interagency Border Inspection System (IBIS) name check, the FBI fingerprint check, and the FBI name check. For the vast majority of applicants, these mechanisms allow USCIS to quickly determine whether there are any criminal or security related eligibility issues. In the remaining cases, often referred to as "pending" a match of some kind has been identified and must be resolved before any decision can be made on the petition or application. USCIS does not share with applicants or their representatives information regarding the specific nature of the match or the nature or status of any investigation. Even when the issues are ultimately resolved in the applicant's favor---and the vast majority are---such investigations require time, resources, and patience.

We are committed to working with Congress to ensure that cases are processed within a reasonable period of time. In some cases, however, security concerns will not permit us to go forward. We ask for your patience in such cases, and in return we promise to continue to seek resolution as quickly as possible in each individual case.

Joan Thomas
Congressional Liaison Specialist
Department of Homeland Security
U.S. Citizenship and Immigration Services
Nebraska Service Center

12/5/2007